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India: Domestic violence; effectiveness of the existing laws, including the penal code, in protecting women who are victims of domestic violence; access to women's shelters in major cities; organizations that provide assistance to victims of domestic violence (January 2003-May 2005)

Research Directorate, Immigration and Refugee Board, Ottawa

Current Situation

A large number of sources consulted concurred that domestic violence or more general forms of violence against women were serious and endemic in many, if not all, areas of India (BBC 2 Apr. 2004; *ibid.* 30 May 2003; *Business Line* 24 Sept. 2004; Congressional Testimony 2005; *Country Reports 2004* 28 Feb. 2005, Sec. 5; DPA 12 June 2003; Freedom House 23 Aug. 2004; *The Hindu* 5 Sept. 2004; HRW 13 Jan. 2005; UK 21 Dec. 2004, Sec. 4.37; *India Together* Nov. 2004a; *The Times of India* 14 Apr. 2004; *The Tribune* 8 Feb. 2005; *ibid.* 5 Jan. 2005; Women's Feature Service 23 Feb. 2004). Overall estimates on the proportion of Indian women who suffer from domestic violence vary between 20 (BBC 30 May 2003; *The Hindu* 5 Sept. 2004) and 45 per cent (Women's Feature Service 23 Feb. 2004). According to *Country Reports 2004*, while the media reported a rise in domestic violence (see also *The Hindu* 6 Mar. 2005), some women's rights activists mentioned increased reporting as a possible cause for the rise (*Country Reports 2004* 28 Feb. 2005, Sec. 5; UK 21 Dec. 2004, Sec. 4.48). A representative of the Institute for Development and Communication (IDC) in Chandigarh, a non-profit organization involved in development and gender studies (IDC n.d.), felt that actual rates of domestic violence could be declining (UK

21 Dec. 2004, Sec. 4.48). Nevertheless, *Country Reports 2004* cited data from the Indian Ministry of Home Affairs, which claimed 130 reported cases of dowry deaths, 490 instances of rape, and 1,211 cases of cruelty by the husband or in-laws in New Delhi alone (28 Feb. 2005, Sec. 5).

According to *The Hindu*, a study cited in a book entitled *Unequal Citizens: A Study of Muslim Women in India* and published by Oxford University Press, surveyed 10,000 Muslim and Hindu Indian women and found that a greater proportion of Hindu women suffered violence than Muslim women (5 Sept. 2004). The survey also found that rural women were more frequently victims of violence than their urban counterparts, and higher levels of income also corresponded with a lower incidence of domestic violence (*ibid.*). As well, research conducted in Kerala found that approximately 49 per cent of women who did not own property were victims of physical violence, against 7 per cent of those who did (US 13 Apr. 2005). However, *The Hindu* reported that the relationship between higher income and lower incidence of domestic violence, a view also held by a representative of the National Commission for Women (NCW) that linked poverty with domestic violence (UK 21 Dec. 2004, Sec. 4.33), could be due to underreporting among the more privileged women (5 Sept. 2004). In fact, according to the BBC, new revelations of widespread domestic violence among India's elite are challenging traditional views that violence is concentrated among impoverished and illiterate women (30 May 2003).

According to *The Tribune* of Chandigarh, violence against women is "increasing at a rapid pace" in the state of Punjab (5 Jan. 2005). *The Tribune* cited a study done by a psychiatrist who claims there are links between alcoholism and domestic violence that and that Punjab had the highest per capita consumption of alcohol in India (16 Sept. 2003). A UK fact-finding mission to India also referred to these links (UK

21 Dec. 2004, Sec. 4.33). The *Times of India* also mentioned a rising incidence of domestic violence in the city of Chandigarh between 2001 and 2004, but police claim this increase was due to higher levels of reporting (14 Apr. 2004). The BBC reported that in south India, domestic violence, along with family conflicts and mental illness, contributed to what a British medical study claims is the highest suicide rate in the world among young people (2 Apr. 2004). While the global suicide rate is approximately 14.5 per 100,000 people, with the rate among men three times that of women, the study found an average suicide rate of 148 per 100,000 among 10- to 19-year-old females in a region around Vellore, while the average rate for males of the same age in the same region was 58 per 100,000 (BBC 2 Apr. 2004).

Another phenomenon of domestic violence in India involves violence against women domestic workers (*India Together* Nov. 2004a). Every month, the National Domestic Workers Movement (NDWM), founded in Mumbai in 1985 (*The Hindu* 31 May 2005) receives 10 to 15 reports of abuse or violations in Delhi alone (*ibid.*).

For a table of the countrywide distribution of various crimes committed against women reported in 2003, please see the attachment, which was released on 20 July 2004 by the Indian Ministry of Home Affairs (UK 21 Dec. 2004, Sec. 4.8).

Society

Several sources acknowledged a widespread belief among many segments of India's female population that domestic violence is either acceptable or simply an expected part of life (BBC 30 May 2003; *Country Reports 2004* 28 Feb. 2005, Sec. 5; *The Indian Express* 1 June 2004). A lawyer who appeared before the Supreme Court allegedly remarked that some judges and law enforcement officers shared this bias (ibid.). According to studies by the Institute of Population Studies (*The Hindu* 6 Mar. 2005) and the National Family Health Survey, released in 2002 (*Country Reports 2004* 28 Feb. 2005, Sec. 5), the majority of Indian women (56 per cent) surveyed said that domestic violence was justified (ibid.; *The Hindu* 6 Mar. 2005). *The Tribune* noted that 58 per cent of Indian women felt that domestic violence was normal, and that "only the extreme cases of domestic violence merited external intervention" (9 Jan. 2003).

The author of a book entitled *Behind Closed Doors: Domestic Violence in India*, herself a victim of domestic violence (*The Times of India* 20 June 2004) claimed that denial of the problem was highest among the middle and upper-middle classes of Indian society (*The Statesman* 28 June 2004).

Legislation

Section 498A of the Indian Penal Code proscribes "cruelty to wives" (*Business Line* 24 Sept. 2004):

498.A Husband or relative of husband of a woman subjecting her to cruelty

Whoever, being the husband or the relative of the husband of a woman, subjects such a woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation - for the purpose of this section, "cruelty" means -

any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

harassment of the woman where such harassment is with a view of coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such a demand (India Law Info n.d.).

Manushi, a New Delhi-based journal, reports that the Indian courts have recognized cruelty in several ways: "persistent denial of food; insisting on perverse sexual conduct; constantly locking a woman out of the house; denying the woman access to children, thereby causing mental torture; physical violence," and several other categories (Oct.-Nov. 2003). In the case of domestic violence, the journal also claims that a woman can request an injunction, or court order, for instance, to forbid a stalker (including her husband) from having any contact with her (*Manushi* Oct.-Nov. 2003). A woman can also obtain a "bond to keep peace" through the Executive Magistrate to ask the husband to stop violent activity; this bond includes asking the husband to deposit securities that could be forfeited if he were to revert to violence (ibid.).

According to Human Rights Watch (HRW), women's rights activists continue to press the Indian government to recognize marital rape, which, unless the wife is under 15 or lives separately from her husband, is not a criminal act in India (13 Jan. 2005; see also UK 21 Dec. 2004, Sec. 4.39; AFP 27 Aug. 2004).

AI noted in its 2005 report that "...India still lacked comprehensive legislation addressing domestic violence." A proposed bill on domestic violence was deemed "counter-productive" by 60 non-governmental organizations, which later attempted to amend it, although no information on whether they were successful could be found among the sources consulted by the Research Directorate (*The Tribune* 19 Mar. 2003). *The Tribune* noted that women's rights advocates continued to press for one comprehensive law to deal with domestic violence, rather than forcing women to seek protection under a variety of disparate acts and laws (9 Jan. 2003).

Judiciary

Country Reports 2004 considered prosecution of domestic violence cases in India as ineffective (28 Feb. 2005, Sec. 5).

National and international women's rights organizations have apparently also criticized the narrow interpretation by the judiciary of what constitutes rape (*India Together* Oct. 2004). For instance, the *Gulf Times* reported on 6 May 2005 that human rights groups strongly condemned the decision by a court to allow "a man convicted of raping and partly blinding a young nurse to offer to marry his victim" - the man was subsequently sentenced to life imprisonment when the woman refused the offer.

On 6 January 2004, the Women's Feature Service highlighted the criticisms lodged by a body of over 40 women's rights NGOs regarding the recommendations made by the Justice V. S. Malimath Committee, established in 2000 by the Indian Ministry of Home Affairs to improve the efficiency of the justice system. Among the most problematic recommendations, which the NGOs termed "gender insensitive," was the fact that cruelty under section 498A of the Indian Penal Code would become "bailable and compoundable" (the latter term meaning that the complainant could withdraw her police complaint at any time) (Women's Feature Service 6 Jan. 2004). The NGOs claimed that if approved, the new law would discourage women from reporting spousal or domestic abuse (ibid.). In its Bulletin on India, the United Kingdom's Immigration and Nationality Directorate (IND) indicated that the Bill had "lapsed on dissolution" in Parliament on 13 August 2004 (Feb. 2005).

Police

According to women's rights activists, the police and state response to complaints of domestic violence in northeast India is ineffective, despite the large number of committees created by the government to deal with violence against women (DPA 12 June 2003). Due to the high incidence of rape in New Delhi, local police allegedly conducted two workshops per week in 2004 on "gender sensitivity" (*Country Reports 2004*, Sec. 5).

A representative from the Anveshi Research Centre for Women's Studies, based in Hyderabad, was quoted by the Immigration and Nationality Directorate's fact-finding mission to India (conducted between 11 and 24 July 2004) as saying that "police respond very differently to different classes of women," (UK 21 Dec. 2004, Sec. 4.46) although this sentiment could not be corroborated by the Research Directorate.

A high-profile case cited by an article in *India Together* highlighted a lack of police response for several months despite repeated calls for help by the wife of an assistant to the Maharashtra State governor (*India Together* Nov. 2004b).

Sources mentioned the existence of a special Crime Against Women police "cell" or unit that helps women in distress (BBC 9 Sept. 2004) in Delhi (ibid. 30 May 2003) and Ludhiana (*The Tribune* 16 Sept. 2003). According to the unit chief in Delhi, the cell receives about 1,000 complaints per month (BBC 30 May 2003).

Of 750 "actionable complaints" filed by victims of domestic violence with Chandigarh city police over an unspecified period of time, authorities claim they were able to resolve 250 cases, while approximately 250 other cases resulted in "mutual separation" between spouses and roughly 125 resulted in criminal charges being laid by the police (*The Times of India* 14 Apr. 2004). A similar breakdown of 2,500 cases dealt with by a counselling professional who worked for the Ludhiana police department, as well as for a local NGO, revealed that approximately 65 per cent of domestic violence cases were resolved, 25 per cent led to separation due to fears that the marriage remained unsafe, and 10 per cent led to criminal charges (*The Tribune* 16 Sept. 2003).

According to *The Tribune*, among the obstacles limiting the effectiveness of police in their attempts to investigate cases of domestic violence are non-reporting by victims, as well as the lack of public witnesses (9 Jan. 2003).

Government

Country Reports 2004 cited the creation of new telephone helplines, short-stay homes, counselling and occupational training initiatives, medical assistance, and grants, among other services, as evidence of ongoing government efforts to help women who are victims of violence (28 Feb. 2005, Sec. 5). However, Amnesty International (AI) indicated that by the end of 2004, the Indian government had yet to submit its overdue periodic reports to the United Nations Convention on the Elimination of Violence Against Women (CEDAW) (2005), even though India has ratified CEDAW (AI 2005; Women's Feature Service 6 Jan. 2004).

In its 2004 report on human rights in India, AI criticized the government of Gujarat for its alleged lack of response to the plight of many Muslim women who were specifically targeted and killed in communal violence that took place in Gujarat in 2002 (2004). According to AI, the responses by police, health authorities, and the rehabilitation and justice systems were "wholly inadequate," and "[n]early two years after the attacks, the survivors still had no access to rehabilitation packages or procedures geared to their needs" (2004). For more information on the February 2002 incidents of violence against women in Gujarat, please refer to *India: Justice, the Victim - Gujarat State Fails to Protect Women from Violence* available at <<http://web.amnesty.org/library/Index/ENGASA200012005>>.

Non-Governmental Organizations (NGOs)

According to a senior correspondent for the Hyderabad-based *The Week*, abused women in Andhra Pradesh often return to their husbands for lack of short-stay homes (UK 21 Dec. 2004, Sec. 4.45). A UK fact-finding mission to India noted that the Chairperson of the National Commission for Women (NCW) was optimistic that following the commission's recommendations to the government on the Domestic Violence Against Women (Prevention and Protection) Bill, it would eventually be passed (21 Dec. 2004, Sec. 4.47). Many women's groups apparently anticipate that a new domestic violence bill, which would take into account their specific recommendations, could greatly benefit women in dire need of protection (*India Together* Nov. 2004b).

Although domestic violence is a serious problem in Gujarat, an organization called Sanchetana is trying to combat domestic violence and today has groups of women who "resist violence and question [domestic violence]" in all urban areas of Gujarat, which includes around 40 per cent of the state's population (UK 21 Dec. 2004, Sec. 4.51).

One example of an NGO that addresses domestic violence is the New Delhi-based Centre for Social Research, which Inter Press Services (IPS) claimed deals with over 50 different cases daily (28 May 2003).

For a listing of several governmental and non-governmental organizations devoted to helping women who are victims of domestic violence in India, please see the attached document from the Women's International League for Peace and Freedom (Peace Women) (n.d.). In addition, please find attached "Annex 5: Information About the Organizations Cited in the Report" from the *Report of the Fact Finding Mission to India. 11-24 July 2004: Women in India*, which describes several NGOs working to assist women who are victims of violence in India (UK 21 Dec. 2004, 141).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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